

REMARKS

Reconsideration of the application, as amended, is respectfully requested.

Concerning the obviousness-type double patenting rejection over co-pending application Serial No. 10/045,405, although it is not admitted that the rejection is correct, in order to expedite prosecution, Applicants agree to filing a terminal disclaimer upon indication of allowable subject matter.

Concerning the rejection of claims 1-8 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9 of "U.S. PG No. 2003/0122868" in view of Sagi, this rejection is not understood. U.S. Patent Publication 2003/0122868 is on its face assigned to the International Business Machines Corporation and appears to relate to information technology rather than emulsion spreads. Therefore, the cited document would not appear to be relevant to an obviousness-type doubling patenting rejection of the present application and it would be appreciated if the Office would withdraw or clarify this rejection.

With respect to the Section 103 rejection, Applicants enclose a copy of a declaration by inventor Eckhard Floeter in companion case, Serial No. 10/045,405. The declaration compares spreads made with fat blends according to cited Lomneth et al., U.S. Patent No. 4,388,339 as compared to spreads from fat blends which include allanblackia fat. In this respect, it should be pointed out that although the Office characterizes Lomneth as teaching a hard fat having 32-50% SOS triglycerides, the "S" of Lomneth is defined to include C₁₆ triglycerides whereas the "S" of the present invention denotes a fatty acid residue with a saturated C₁₈-C₂₄ carbon chain. Therefore palmitic residues are included within Lomneth et als.' "S" whereas they are not included within the "S" of the present invention. The Lomneth et al. margarine examples on columns 28 and 29 include very

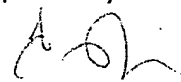
substantial amounts of palmitic moieties from the palm midfraction whereas Applicants' examples include allanblackia fat which abounds in stearic acid residue.

Inventor Floeter indicates on pages 4 and 5 that the blends based on allanblackia have a relatively low hardness at low temperatures which implies good spreading performance when taken from the refrigerator, while the relatively high hardness at high ambient temperatures implies good stability against temperature abuse. Moreover, the products containing allanblackia are said to show at increasing temperature a sharp drop in product hardness which is experienced as excellent mouthfeel. In addition, the Lomneth et al. spread products were said to be very prone to development of formation of grainy fat agglomerates whereas the allanblackia based margarines were said to enjoy reduced risk of graininess.

In view of the foregoing, it is submitted that Lomneth does not teach the present compositions nor their benefits. Neither does the Office point to any teaching in the secondary references which remedies the noted deficiencies. Consequently it is respectfully requested that the application be allowed.

An Information Disclosure Statement will be sent tomorrow.

Respectfully submitted,



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